

OUR HINDU-MUSLIM PROBLEM-A SOLUTION

BY

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AND
BOMBAY UNIVERSITY SCHOLAR IN CONSTITUTIONAL LAW

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WITH

A FOREWORD BY

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FOREWORD

The author of this brochure is a lawyer, devoted to his work, but not so absorbed in it as to be incapable of transcending the limitations of a commercial age. He was a University Scholar in Constitutional Law in his student days, and he has kept true to his old love, as the brochure witnesses. As one who belongs to neither of the two great communities he can legitimately claim to have a detached view in the suggestions that he has to offer for the solution of the Hindu-Muslim problem. These suggestions are summarised in the formula put forward in Chapter VIII that "all decisions in the Legislatures, both Federal and Provincial, shall be ordinarily taken by a majority vote, provided, however, that no bill shall become law unless and until it shall have been supported by a majority of the minority community, either Hindu or Muslim as the case may be, in any particular legislature, provided further that in the Punjab no bill shall become law unless and until it shall have been supported by a majority of the Hindu group as also by a majority of Sikh group in the Legislature."

A stable society with the machinery of government is based upon the implied assumption that the minority, through conviction and not through fear, is in general agreement with the plan of life which that society embodies. Where this confidence or conviction becomes unsettled, the stability of that social organisation is threatened. The growing fear of the Muslims in India is acknowledged on all sides; and the twelve months

ahead of us are the crucial months when every effort should be welcome to restore the growing loss of confidence.

Social evolution is an ever recurring process of experimentation, a process of trial and error, aiming at the reconciliation of the conflicting interests of the individual and the group to which he belongs, and of groups to wider groups. We learn through our failures; we trip and recover our balance, with the prospect before us of tripping again. The way is long and the end need not be in sight. But every earnest step forward witnesses to our faith; and the formula proposed in this brochure might well go forward on its message of hope in these days of darkness and gloom.

P. A. WADIA

P R E F A C E .

This thesis—if such a sketchy work as this may be so called—is an introduction to and an exposition of a formula which is the best constitutional solution of the Hindu-Muslim problem as conceived by the author and is based on the critical study of the constitutions of all democratic countries of the world, with particular reference to our special conditions, as to our needs and aptitude.

The formula is embodied in Clause (1) in Chapter VIII of this Book. Clauses (2) and (3) are mere corollaries to Clause (1). Be it noted that clause One is the fulcrum on which the frame-work of our constitution rests and revolves. Anticipating likely criticism of the formula, the point of view of the critic is presented with fairness and an attempt has been made to answer the same in this thesis.

The other Clauses of the Scheme (Clauses 4 to 20, Chapter VIII) are merely subsidiary and may be accepted, improved or rejected as may suit our main purpose. But our sheet-anchor must be the principle embodied in Clause (1) referred to above.

The rest of the book is practically devoted to the exposition of the principles of democracy and to the pointing out of the misconception that exists in popular mind as to the correct import of democracy. This is done with a view to equip the readers with a proper perspective so as to enable him to grasp better the true significance of the formula.

107, Mahatma Gandhi Road, }
Bombay 8th March, 1947. } R. B. ANDHYARUJINA.

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"It is legitimate compromise to say : 'I do not expect you to execute this improvement, or to surrender that prejudice, in my time. But at any rate it shall not be my fault if the improvement remains unknown or rejected. There shall be one man at least who has surrendered his prejudice, and who does not hide that fact.' It is illegitimate compromise to say : 'I cannot persuade you to accept my truth; therefore, I will pretend to accept your truth'."

—From JOHN VISCOUNT MORLEY'S
"ON COMPROMISE."

I

INTRODUCTION: NEED OF THE HOUR:

No-one disputes that India must have a democratic Government, but there is a divergence of opinion as to what form that Government should take. And this divergence is natural and not unexpected, more especially in the present state of our political parties and their distrust of each other. What, however, all the parties are agreed upon is the basic fact that India must be independent of any outside control and that the machinery of our own Government must be based on the principle of democracy or put it in a slightly different manner on the principle of self-rule.

The British Government having declared their definite intention to raise their control from the administration of India, the only question that vexes us is how to set up a machinery of the Government of India based on the principle of self-rule. The only scheme which at present holds the field is the Scheme suggested by the Cabinet Mission, once approved by our two major parties, the Indian National Congress and the All-India Muslim League. Though the Scheme has begun to function, the Muslim League has rightly or wrongly withdrawn its approval of it. It is not within the scope of this discussion to find out who is right or wrong in the attitude that is adopted by the Congress and the League towards the said Scheme. The stern reality is that without the co-operation of the Muslim League the Constituent Assembly would be like the Play of *Hamlet* without the Prince of Denmark in it.

That this fact is realised by all concerned is evident from the recent statement made by the British Prime Minister, Mr. Attlee, in the House of Commons, which, in the event of continued non-co-operation of the Muslim League with the Constituent Assembly, visualises a plan whereby the Cabinet Mission Plan would become more or less a scrap of paper in the sense that the future constitution of India would not be the one which would be forged out by the Constituent Assembly. The Prime Minister's statement deprives the Constituent Assembly of its representative character in the sense that the Assembly would not be the representative of India as a whole, but only of a section of the country. If the Muslim

League continues its non-co-operation, or having entered the Constituent Assembly, a situation arises in which there is a complete deadlock; which is not unlikely, the same position would arise, and by June 1948, there will not be an agreed constitution for the whole of India as fashioned by the Assembly.

The result of this non-co-operation or deadlock would be that the British Government would be constrained to hand over the machinery of the Government to at least two distinct and separate Governments, the broad features of which would be that one would be a predominantly Hindu Government and the other a Muslim Government. Moreover, these Governments would be in a state of sullen mood and frayed temper. The result would be that there is every possibility of Great Britain, with the best of intentions on her part, leaving India divided into at least two armed camps. This prospect, no patriot can contemplate with equanimity, especially in view of the changed psychology and the fast changing political outlook of the Hindu and Muslim masses, the professions of their leaders notwithstanding.

Therefore, the need of the hour is to prevent such an eventuality to occur. Wise statesmanship requires that before the die is cast and the Rubicon is crossed, we should agree to fashion out a constitution for the whole of India, broad-based on just compromises and timely concessions. Only on one point there will be no compromise and that is on the principle of self-rule. Happily, no-one in this vast country wants to compromise on that point. That must be the rallying point

of all divergent views. It is the purpose of this thesis to indicate in their broadest outlines the basic features of a constitution based on the principles of self-rule, which must satisfy the craving of the soul to be independent of extraneous control whatsoever and at the same time remove the fear, real or imaginary, which exists in the minds of the people, viz., that of domination by one section over another.

II

FOUNDATION OF DEMOCRACY

Much of our present ill is due to our failure in not properly understanding the true content and import of the word " Democracy ". Democracy in its literal sense means " the rule of the people ". The people may be ruled either directly or indirectly. In ancient times Athenians gathered together in a central place and framed their laws. That is how people ruled themselves directly. Direct democracy of the Athenian type is, however, ruled out due to the very vastness of the modern State. A progressive increase in the extent of territory occupied by a single state has necessitated the adopting of an expedient of an Indirect or Representative Democracy. Thus in a country governed by representative institutions like the British Parliament, the people govern themselves not directly but indirectly through their representatives.

It is not, however, quite true to say that the British Parliament, for instance, perfectly represents the people inhabited by Great Britain. Due to the defects in the existing machinery of election, which is in parts clumsy and in others inadequate, it is more correct to say that the British Parliament imperfectly or roughly represents the people of Great Britain. In the City of Durham there is one member to 14,935 inhabitants but in Waltham-Stone one to 217,030. The value of a vote, therefore, varies enormously in different districts. Again, the system of single-member constituencies has notoriously failed in one of its main objects, viz., to

secure the adequate representation of minorities. The result is that a very large majority of members is often returned by a minute majority of electors. Such a result is inconsistent with any sane theory of democracy.¹

Moreover, there are other factors which widen the gulf between the political sovereignty which resides in the people and the legal sovereignty which resides in the Parliament. Party discipline, for instance, which is rigorously enforced on every member of the party-in-power silences the dissentient voice of the representatives of the voters who may hold a different view on a given question before the Parliament from that held by the Cabinet, i.e., the party leaders. The consequence is, though the people are more or less represented in the Parliament, they do not as a rule govern the country. The real rulers are the bosses of the party-in-power; and the bosses as a rule are ruled by the Prime Minister, who by reason of his influence, ability and moral status, instinctively commands respect and obedience from the other leaders in the Cabinet. It may, therefore, be that a capable friend or the forceful and practical wife of the Prime Minister, unknown to the public gaze, rules England to the exclusion of all the voters, in whom political sovereignty lies. Such is the anomaly of the working of representative institutions of the West and across the Atlantic that they tend to become unrepresentative in the matter of the actual governance of the country in proportion as the party machinery becomes efficient, disciplined and bosses-driven. Due to the alarming growth of the dictatorial nature of the party Leader-

¹ Vide *English Political Institutions* by Marriot, page 225.

ship and the various factors which go to create and increase distance between the political sovereignty and the legal sovereignty of the State, the political historian like Lecky fears that "Representative institutions will probably perish by ceasing to be representative". These apprehensions may be exaggerated, but the fact remains that though these representative institutions may in course of time represent the voters in a more or less perfect manner, there is, indeed, no guarantee that these voters would themselves rule the country.

In practice the people are content as long as their Government ensures their welfare. Human mind has a rough and ready test: They say, the tree is known by its fruit. As long as the people have a conviction, rightly or wrongly entertained, that their Government ensures their welfare, they do not bother themselves about as to who among their representatives rules the country. That being the attitude of the mind of the bulk of humanity, representative institutions tend to become, especially in peace-times, the rule of the party leaders and not necessarily that of the people.

In spite of its imperfections, the democracy in its much diluted form is tolerated, nay, often prided upon, in the West and in the U.S.A., because in these democracies the peoples concerned entertain a conviction that they have a Parliament of their election and that that Parliament ensures their well-being. These are the two solid granite rocks on which the British Constitution and the American Constitution rest safely.

III

BASIS OF ALL GOVERNMENTS

The conclusion reached in the previous Chapter leads us to another important conclusion which has an immense bearing on our present discussions. That conclusion is: that *forms* of Government do not matter to the people; it is the *feeling* that the people have about their constitution under which their Government comes into existence, that matters. If they are satisfied that the constitution is a guardian of their liberties and the promoter of their interests, it does not even matter that this feeling of satisfaction is an illusion. The moment they are disillusioned on this point they will unmake the constitution and make another, perhaps worse than the former. But that even does not matter; for the moment, for the duration of a particular constitution, the people *must feel* that their constitution is the guardian of their liberties and promoter of their interests. History of the experiments in constitution-making in France since the Revolution till the present day amply demonstrates the truth of the above proposition. Again, after the First Great War the circumstances in which Dictatorship flourished in Italy and Germany and nearer home in Persia during the regime of Rezashah-Pahlavi furnish other illustrations of the same rule.

Our foregoing discussions may be summarized thus: Success of a Constitution by which a nation is governed has its roots more in the psychology of satisfaction of the governed than in any particular form that Government may take under that Constitution.

IV

APPLICATION OF THE FOREGOING PRINCIPLES TO OUR PROBLEMS:

Let us apply the foregoing principles to the constitution which may be framed by our people in India. If large masses of people like the Muslims in India say that they *feel*, rightly or wrongly, that the constitution is not the guardian of their liberties and promoter of their interests, that constitution will never command their willing allegiance, which is a condition precedent to the working of any constitution; for, if it is enforced by a temporarily superior physical force, for the time being they would lie low in sullen resentment only waiting for a suitable opportunity to break that constitution and establish another in its place, which may be in all probability totally repugnant to Hindus. And *vice-versa*. This may not—and in all probability will not—happen before the British quit India; but in absence of any agreement between the Muslims and Hindus, that may happen any day after the third party withdraws from the arena.

Therefore, wise statesmanship demands that Hindus must see that the Muslims are satisfied with the Constitution that we frame; similarly the Muslims must equally see that Hindus and Sikhs must feel satisfied with that Constitution. I may recall that the word “satisfaction” in this connection means satisfaction arising out of the conviction that the constitution shall be the guardian of their liberties and promoter of their interests.

V

POPULAR MISCONCEPTION ABOUT DEMOCRACY:

That there is a misconception in the minds of a majority of our people as regards the essentials of a democracy is clear when democracy is conceived as merely synonymous with a rule by a majority of the population inhabiting a country, *without any qualification*. No doubt to carry on the day-to-day administration of the state, where the same is to be done with the approval of a large number of the representatives of the people, obviously the governance by a rule of majority becomes a necessity, for, unanimity in human affairs on all major and minor points in any assembly of people is an accident, rather than a rule. Hence, the principle of majority rule is devised as an expedient, human nature being what it is, to prevent deadlocks which would be inevitable, if the governance of a country is to be based on a unanimous vote of the representatives of the people.

Strictly speaking, a majority rule cannot be said to be the rule of the people, by the people and for the people. It is simply the rule for the time being, only by a *majority* of the people inhabiting the state. This is an obvious defect, in the working of democracy, born out of its very nature, but were a constitution so framed that the majority of a particular party group or community was to remain in majority in perpetuity, this defect would go at the root of the idea of democracy and sap its very foundation. The minority in a parlia-

ment is content to be ruled by a majority, for it is never impossible for it to convert its minority into a majority in future elections to the Parliament. Because of this feeling of contentment, the rule by a majority loses its sting altogether in all democratic countries.

That this feeling of contentment actuating the minority in the Parliament is not based on imaginary grounds is equally clear, if one studies the aptitudes and inclinations of the large masses of people in all democratic countries where representative institutions have been more or less a success. There exists in these countries a mobile body of political opinion, owing no allegiance altogether to any party. To this mobile body of political opinion the minority turns its attention and directs its appeal and tries to win it over to its views by putting before it a programme, which would in the opinion of that mobile body of political opinion, conduce to their well-being as contrasted with the programme of the majority party that governs the country. The measure of the success of the minority in carrying conviction to this mobile body of political opinion as to the propriety of its programme would be the measure of success which would attend it in converting itself into a majority from a minority. Were it otherwise, that is to say, if the minority had no prospect by constitutional ways to turn itself into a majority, the discontent of the minority may gradually burst the bounds of the constitution and a revolution will be a daily possibility which cannot be lightly disregarded.

This possibility of converting at a future date a minority into a majority is the essence of the success of democratic institutions; and it is from this very source there arises the willingness of the minority for the time being to accept the decisions of the majority.

Thus due to this assurance, borne out by centuries of experience, the minority in the British Parliament, i.e., His Majesty's Opposition, rests content with its temporary lot of being ruled by a majority in the House of Commons. And this is literally true of all minorities in France and the United States of America and all those British Dominions who have framed their constitutions on the British or the American pattern. History of these countries, especially that of Great Britain and the U. S. A. has taught these Oppositions (the minorities in the Parliaments) in all democratic countries, having more or less the same conditions as prevail in Great Britain and the U. S. A., to wait for the morrow and their opportunities, to blossom forth into the governments of the future. Lord Bryce speaks of this aspect of the British constitution which has made it a success and an envy of the world in these terms:

"It (the British constitution) works by a *body of understanding* which no writer can formulate and of *habits* which centuries have been needed to instil".

Out of this 'body of understanding' and the 'habits' has steadily grown up mutual confidence between the majority and the minority parties in the British Parliament, which transcends the political differences of the hour. This growth of mutual confidence between the great parties in all democratic countries is the offspring of the parent feeling of assurance, guaranteed by their experience of the working of the constitutions concerned, that a minority in a democratic country is a temporary phase and that any moment it would be called upon to shoulder the responsibilities of government.

Now, viewed against this background, the principle of majority rule in the working of democratic institutions

tree of democracy would wither away in its very adolescence; bearing neither blossoms nor fruits, leaving only a veritable putrid smell behind.

We may summarise our conclusions briefly thus:

A. In order that the principle of majority rule may flourish, there must co-exist two factors, viz., that the minority must have a sincere conviction that the morrow would see them converted into a majority; and that there must exist mutual confidence between the great parties in the State.

B. Without these pre-requisites the successful working of democratic institutions is impossible.

C. Democracy does not mean and can never mean simply a rule by a majority. The conviction of the people that their constitution is the guardian of their rights and liberties and promoter of their interests is the very soul, essence and basis of democracy.

VI

THE FEAR OF THE MUSLIMS

Before we utilize the foregoing conclusions for the solution of our difficulties at home, when we are on the threshold of the much-coveted era of constitution-making, let us exactly know what our difficulties are, assess their genuineness, and endeavour to remove them, for remove them we must. The problem of problems is the Hindu-Muslim question. Let us know what it is.

The Muslim League is the acknowledged mouth-piece of the Muslims of India. Though the Indian National Congress claims, and very rightly so, to represent all the inhabitants of this vast land, that claim, though historically unexceptionable, does not square with the realities of the situation. By the success that the Muslim League has gained in capturing the imagination of the Muslim masses, that unique historical position occupied by the Congress is effectively undermined. To-day it is driven by the force of circumstances into a position when it can speak only on behalf of Hindus and the rest of the minor minorities. But if the Cabinet Mission had chosen not to ignore Dr. Ambedkar, perhaps the position of the Congress would have been still more undermined. But as matters stand to-day, the adage, "Good cometh out of evil" has fulfilled itself. Dr. Ambedkar's statesman-like speech in the Constituent Assembly has raised him to a position of an all-India Hindu leader as opposed to a leader of Depressed Classes, and incidentally pre-

vented our present-day problem from becoming more complex and baffling. Let us, therefore, recognise these facts and say that the Congress roughly represents Hindus and probably Sikhs and minor minorities and that the Muslim League roughly represents the Muslims of India.

Congress stands for the independence of India; so does the Muslim League. Congress desires a democratic constitution for India; so does the Muslim League. Congress aims at the autonomy of the Provinces with strictly defined and limited powers of the Centre. Muslim League concedes the principle of the autonomy of provinces but maintains that in the circumstances in which the Muslims of India find themselves they must have a separate state of their own. The League calls it "PAKISTAN".

As can be gathered from the writings and utterances of the top League leaders, Pakistan connotes, *inter alia*, the following:—

(i) It means a sovereign state comprising those Provinces where the Muslims are in a clear majority.

(ii) It follows from the above that the Provinces where the Hindus are in a majority uniting together, would form their own separate sovereign State.

(iii) It means that there would be two standing armies armed to the teeth, one in Pakistan and the other in what is provisionally described by the League as "Hindustan".

(iv) The Muslims in Hindustan would be perpetually in opposition in the legislatures of the different Provinces comprising Hindustan, and con-

versely, Hindus would be perpetually in Opposition in the Legislatures of the different Provinces comprising Pakistan.

(v) The Muslims in Hindustan Provincial Legislatures would be perpetually dominated by the Hindus of those parts and conversely Hindus in Pakistan Provincial Legislatures would be perpetually dominated by the Muslims of those parts.

The question naturally arises, what is the disease, to cure which this remedy is prescribed and does this remedy cure the disease which it is intended by its authors to cure?

The problem (or the disease in the body politic) is this: the Muslims have a distrust of the Hindu majority in the future legislatures of India where Hindus are in an overwhelming majority. They say in effect: "We have become politically conscious. We are proud and conscious of our individuality and heritage. We do not want to be dominated for all times by a Hindu majority and become a perpetual opposition in the Central Legislature. The Central Legislature will guide the destinies of India, and we would, never have any '*initiative*' or a *veto* in the shaping of that destiny. In a democratic legislature the voice of a majority will prevail and ours will be the voice in the wilderness. Though we are politically as conscious as Hindus, we are still much backward economically compared to Hindus. We must, therefore, have a hand in effectively utilizing the machinery of the state to safeguard our rights and interests. It may be that the rights may be guaranteed by the Constitution to the Muslims, but what is the sanction behind our aggrieved minority, if the majority breaks the constitution with impunity, for the control of the armed forces of the state would

perpetually and legally vest in the majority party which means in the Hindus. In that event revolution would be the only alternative left to the Muslims to redress their wrong. And being in a minority what chances have we to succeed in that revolt against an organised state backed by modern well-equipped land and air forces? Let us, therefore, not enter into the trap, the spider's parlour".

The sum and substance of the Muslims' case can be put in a nutshell: The Muslims do not want to be dominated or ruled by Hindus for all times.

Is there anything wrong in this complaint? The critics would say: "But there is no foundation for this complaint. Hindus do not want to dominate or rule the Muslims. The Muslims' fears are without foundation, imaginary." The critics may be right, but in any given polity the question is not, whether such and such fear in a large section of the people has a basis or a *raison d'être* to exist but the question is, whether such and such fear, right or wrong, really and simply exists or not. If it exists, the realists must recognise its existence and act as if it has a genuine basis or *raison d'être*.

In this connection we must bear in mind one fundamental fact, viz., that where a 'rigid' or written constitution exists, nothing is or can be left to the goodwill of a particular section of the community or nation. In other words, conventions growing outside the constitution from the very nature of a 'rigid' or written Constitution have little or no place in it; the Constitution must be made fool-proof, as far as human ingenuity would go and as far as human imagination stretches itself into the womb of future. Hence, for the critics to say that the fears of the Muslims that they would be

dominated by the Hindus in the future government of India is not well-founded, and that even if such fears are genuine, the future and the actual working of the constitution would belie those fears, is not practical politics and no sane student of law, relying upon such expressions of goodwill and the working out of conventions, however just and equitable to the Muslims, would leave gaps in the written Constitution of India in this behalf. If there exists such goodwill as would take the form of conventions which would remove the just fears of the Muslims of Hindu domination over them, they must acquire a force of law by their being embodied in a practical fool-proof manner in the Constitution itself, so that they may not be touched or revised except as provided by the Constitution itself.

We must, therefore, so devise our Constitution as to remove the genuine fear of the Muslims, viz., that Hindus would dominate and rule the Muslims in the Central Government for *all times to come*. The successful removal of this fear must be the cardinal principle governing the Constitution of the future. Therein lies our wise statesmanship. Surely, human ingenuity and imagination are not quite powerless to devise a Constitution which would bring about such a happy consummation.

VII

APPREHENSIONS OF HINDUS AND MUSLIMS IF PAKISTAN COMES INTO EXISTENCE.

Pakistan, to my mind is a double-edged sword. It is not exactly a boomerang, for a boomerang recoils upon its thrower himself, but the double-edged sword does not necessarily wound the wielder thereof alone: it may hurt the adversary as well as his own kith and kin.

If the tables are turned against Hindus in the Pakistan Provinces, the tables are also turned to the same extent against the Muslims in the Hindustan Provinces. If Pakistan is conceived as an expedient, as it is, to make the domination of the Muslims by Hindus impossible, that is not achieved, except in the territories covered by Pakistan; where Pakistan's writ would not run, the Muslims would be dominated by the Hindu majorities, i.e., in the territories governed by Hindustan.

Let us examine the case for and against Pakistan. It may be argued by the protagonists of Pakistan thus: "If Muslims are dominated by the Hindu majorities in Hindustan, we know how to deal with that situation by similarly dealing with Hindus in Pakistan. Hindus in Pakistan would serve as hostages. Reprisals would be met with reprisals. Moreover, if that did not bring relief to the Muslims, since Pakistan would have at its disposal the armed forces of the Pakistan State, nothing would prevent the State from keeping its forces at such a level as to compel Hindustan to redress the wrongs to the Muslims there. Hitler could achieve that in

regard to the Germans in Sudeten, and if the second World War had not supervened Hitler would have completely succeeded in his mission in that behalf. Pakistan would bank upon its superior physical force, which it must develop if it wants to survive, in a struggle which may come upon it at any time, provoked or unprovoked, and the show of a superior physical force or the use thereof is bound to have a sobering effect upon Hindustan. Hence, the Muslims need not be unduly apprehensive about their being dominated by Hindus in Hindustan".

The reply to the above argument is as follows:—

If a majority in a Hindustan Province is inclined to dominate over a minority where a pure and simple principle of majority rule, without any qualification, prevails, no amount of criticism from a foreign State (like Pakistan) is likely to improve the position. On the contrary, outside interference is always odious and is likely to worsen the situation. One cannot rouse the populace of Pakistan on such an issue as this without driving them to a war against Hindustan. But if there is going to be a civil war, it must end in the conquest of the one by the other. Either Pakistan disappears or Hindustan disappears at the end of a struggle of this magnitude. But who can dogmatise at this date that Pakistan alone would come out victorious in that war? It may be that Hindustan may go under, and all would be well. But it may be that the superior numbers might ultimately tell and Hindustan may win the war, and then the Muslims might have to live on the sufferance of Hindus. Their lot then would be worse than the previous one. The real independence which some of the Muslims had in Pakistan would also vanish with their defeat in a civil war. It is highly probable

that the cure may turn out worse than the disease. Far from protecting the Muslims in Hindustan, Pakistan might lose its own independence, if it sets about redressing their wrongs, supposed or real, by a method of coercion.

For Pakistan there is, however, an argument based on goodwill and trust. Ordinarily, I would not have noticed it, but for the fact that no less a person than Mr. Jinnah advances it.¹ He says that we have each of us (the Hindus in 'Hindustan' and the Muslims in 'Pakistan') "to trust the others to give equitable treatment to Hindu minorities in Pakistan and Muslim minorities in Hindustan". To say so, it is submitted with respect, is to beg the whole question, for it is the absence of trust in each other and especially by the Muslims in Hindus that gave rise to the expedient of Pakistan, and if, after all, the large masses of Muslims are to be left without compunction to the goodwill and the trust of the Hindus, you destroy your whole case for Pakistan in the same breath. In the same pronouncement Mr. Jinnah says: "We are prepared to trust 25 Million Muslims to them (i.e. to the Hindus in the majority Hindu Provinces) if they will trust us." But where is the trust between them? Why argue on the basis of a fiction? Rather face the facts boldly and say, 'I am sorry to say that under my scheme of Pakistan my 25 million Muslims will remain under the perpetual domination of the Hindus.'

No-one can doubt that the foregoing is a convincing reply and the argument that Pakistan would be able to prevent the Muslims being dominated by Hindus in

¹ Mr. Jinnah's statement to a foreign correspondent in Bombay on or about 6-10-1944.

the Hindustan Provinces easily breaks down at the touch of reality.

Let us turn to figures, I use the Census figures of 1911 for my purpose. These are figures for the British India Provinces excluding the Native States areas. Muslims in the seven Hindustan Provinces number about 24 millions, and in the four Pakistan Provinces (and Baluchistan) about 55 millions. The total Muslim population of all the British Provinces is about 80 millions. Thus about 30% (Thirty per cent) of the total Muslim population in the British Provinces will live in 'Hindustan'. This is not a negligible portion of Muslim population whom one can afford to ignore. (Vide Appendixs).

In these circumstances, if Pakistan comes into existence there would be perpetual domination of 30% of the population of the Muslims in India by Hindus, against which there would be no effective remedy. Is this a remedy which cures the disease or worse than the disease itself?

Now imagine the other side of the picture. What would be the fate of Hindus and Sikhs in Pakistan? The Hindus in the North-West Frontier Province, the Punjab, Sind and Bengal would be perpetually dominated by the Muslim majorities of those Provinces. So would be the proud Sikhs in the Punjab. This has naturally given rise to movements in Bengal and the Punjab to divide those Provinces into Hindustan and Pakistan; and Sikhistan, Pakistan and Hindustan respectively. How far these movements would succeed is at present problematic, for the movements are quite new and have no support of the Indian National

Congress¹ or any of its top leaders; but the movements no doubt are bound to gather momentum if the rule of majority without any qualification whatever is sanctioned by the future constitution or constitutions of India. The movements in that event have every prospect of ultimately succeeding, for the principle of Pakistan must be logically applied to any parts which are geographically amenable to divisions community-wise, and secondly, these movements would be essentially just and righteous, if the demand for Pakistan is recognized to be just and righteous. It would be natural and proper, if Hindus in Pakistan Provinces refused to become hostages for Muslims in Hindustan. The Muslim League cannot escape the logic of its own action. That you cannot approbate and reprobate at the same time is a maxim not only of law but of all departments of human conduct, being a rule based on equity.

Again division of the Punjab and Bengal will not end our troubles. Rather it would be a starting point for fresh ones. It is apprehended that a civil war for a

¹ Since the above was written the Working Committee of the Congress has passed a resolution (8-3-47) suggesting partitioning of the Punjab into two provinces, "so that the predominantly Muslim part may be separated from the predominantly non-Muslim part."

It is respectfully submitted that these devices again do not solve the real problem; it merely creates self-deception among us that we have solved the problem. What is to happen to Muslims in "predominantly non-Muslim part" and to Hindus in "predominantly Muslim part"? Thus we leave the problem where it was.

This is a clear case of bad logic (that of Pakistan demand) infecting the good logic of the habitual opponents of that demand, and vitiating it. Moreover, little have the authors of the Congress resolution realized that if this logic is to prevail, you must, so to say, voluntarily make a gift of Pakistan to the Muslim League. You dare not escape the logic of your own action. If this logic holds the field for a decade, you will find India divided into petty Pakistan Cantons and Hindustan Cantons, and yet the problem of the minorities in those cantons would remain unsolved! How long are we to move in a vicious circle?

corridor joining the Western Zone of Pakistan with its Eastern Zone is more than a possibility. It is not proper to say that it would be lust for conquest on the part of the Pakistan State which would urge it to conquer the buffer territories, but such conquest would be a logical sequel to the formation of Pakistan as an independent sovereign state. Normally, a state, like a nation, tends to be contiguous and self-sufficient. Hence, sheer necessity will drive Pakistan to a war for the corridor. With the best of intentions and in spite of non-aggressiveness on the part of Pakistan, it would not be able to resist the temptation of making itself contiguous and self-sufficient, as far as possible, if a suitable opportunity presented itself to it. Viewed in this light, the seeds of a civil war are inherent in Pakistan. This, together with the spectre of a possible *anschluss*, a union of Islamic countries beyond the frontiers of India, has given rise to a genuine apprehension in the minds of Hindus for the removal of which the Muslim League cannot, and for that matter no one can, give any effective guarantee.

Thus not only the seeds of a civil war but those of a foreign invasion of India are inherent in Pakistan. But no one can dogmatise that the Pakistan State would be able to defeat 'Hindustan' in a Civil War or in an invasion with its allies. In the event of a defeat, which is possible, there would be neither Pakistan nor even a semblance of independence left for the Muslims. I would call a warfare of this sort in modern times a gamble and this is to put it at its highest. It would be hazardous in the extreme to build up our policies and constitutions on the future realization of hopes based on events which are beyond our control and dependent on several world factors which are in their very nature

uncertain. There is more of gambling than of realism in the concept of Pakistan.

Examine the Pakistan Scheme from any angle you like, it will not in practice remove the genuine apprehensions of the Muslims of being dominated by Hindus, but on the contrary aggravate the situation to such an extent that neither Hindus nor Muslims will have true democracy in India. No part of India would be free from the natural discontent that would arise out of the operation of the principle of a majority rule, pure and simple, without qualification. The 'brute majority' would hold its sway throughout the length and breadth of India and the dream of real freedom would vanish from India on the establishment of the new regimes. No community would feel itself safe under the rule of another community and the lands would be furrowed deep by the discontent generated by that feeling and the seeds of hatred would be sown far and wide into those furrows by the activities of rival politicians across the borders of these two states. The fruits of these poisonous cultivations would be harvested by the coming generations and the two states would be steadily moving towards a civil war if the incipient sprouts of revolt have not by that time already burst out and made the soil of India more gory than what it is by Bihars and Noakhalis.

Once on my road a young man came before me
With a sheep running behind him in bounds.

I said to him it is this rope and this cord,
That brings the sheep after thee.

Quickly he undid the collar cord,
It began to leap about right and left,
And ran after him in the same manner,
For it had eaten barley and green corn
out of his hands.

When it came back from its pastime and sport,
He looked at me and said "Oh wise one !

"It is not the rope which makes it follow me
But the noose of kindness."

—(SHEIKH SA'ADI in his BOSTAN.)

VIII

A JUST FORMULA: CLAUSE NUMBER ONE

If Pakistan does not solve the Hindu-Muslim-Sikh problem, what is the solution which would be free from the dangers and pitfalls with which the Pakistan Scheme is beset and which would at the same time remove the genuine apprehensions of Muslims of being dominated by Hindus, both at the Centre and in the Provinces? The solution must be also such as to remove the equally genuine apprehensions of Hindus being dominated in Muslim Majority Provinces. Again this solution must be consistent with the principles of a democratic rule. Moreover, it must be beneficial not

only to India as a whole but must be so to every part of it, however situated as to the quantum of population of any particular community. Above all it must be broadbased on justice. The "noose of kindness" to which Sheikh Sa'adi refers in the verses quoted above must bind all communities together in benevolent bondage.

Here is the solution in its barest outlines, the actual formula being embodied in Clauses (1), (2) and (3):—

(1) Decisions in the Legislatures both Federal and Provincial shall be ordinarily taken by a majority vote, provided, however, that no bill shall become law unless and until it shall have been supported by a majority of the minority community either Hindu or Muslim as the case may be in any particular legislature, provided further that in the Punjab no bill shall become law unless and until it shall have been supported by a majority of the Hindu group as also by a majority of Sikh group in the Legislature.

(2) The framing of the Constitution shall be done by the Constituent Assembly by a majority vote, provided, however, that the decisions therein shall be taken in accordance with the principle of the formula laid down in Clause (1) above.

(3) Revision of the Constitution shall be effected through a specially elected convention. What form this convention will ultimately take depends upon several factors, including whether we adopt a bicameral system or a unicameral one. It would be, therefore, premature for me to lay down the exact form of this convention. But the principle of taking decisions in such conventions shall be the

one laid down in Clause (1) above with an added restriction that the majority of the minority community referred to in that Clause shall mean a three-quarters majority of the minority community concerned.

(4) India shall be a Federation with strictly limited and defined powers necessary for the general welfare and the defence of India as a whole, including those of direct taxation.

(5) The different Provinces shall form autonomous States with residuary powers. They shall be sovereign in their own spheres.

(6) Election to the Provincial Legislatures shall be by adult franchise.

(7) Election to the Federal Legislature shall be indirect, provided, however, that Hindus and Muslims shall have representations in proportion to their population in India as reflected in the latest Census.

(8) In the Federal Assembly Sikhs, Parsis and Christians shall be assigned a fixed number of seats which must be just and equitable.

(9) For the purposes of election to Provincial Legislatures, apart from the provision made in Clause (11) below, there shall be created three special electorates, one for Muslims, another for Hindus and a third for smaller minorities, such as the Parsis and Christians wherever possible, in all Provinces except the Punjab where besides these three electorates there shall be created a fourth special electorate for Sikhs. Subject to the provisions of Clause (13) below, through these electorates, Hindus, Muslims, Sikhs and the other

minor communities shall be respectively represented in legislatures by elections.

(10) Members of smaller minorities such as the Parsis and Christians may be adopted as candidates for election to a Provincial Legislature by any of the three major electorates, provided for the purposes of Clause (1) a candidate so elected shall be included in the quota of representation of the electorate so electing.

(11) Protection given to the Depressed classes in the Poona Pact, based on primary and general elections shall be embodied in the new constitution. This principle shall be extended to Adivasis and other kindred tribes.

(12) The Native States which join the Federation shall send their representatives to the Federal Assembly in such a way that they shall properly reflect in that quota the proportion of their populations (Hindus, Muslims and Sikhs as the case may be) in the States. In the States where there are smaller minorities the principle of Clauses (10) and (13) shall apply to them.

(13) The Provincial Legislatures shall have on them representatives of Hindus, Muslims and other minor communities in proportion to their respective populations as shown in the latest Census, provided, however, that there shall be no representation for any minor community whose population is below one percent of the total population, provided further that the Parsis shall be entitled to elect one member to Bombay Legislature, provided further that where a minor community is below one percent of the total population of the Province

concerned, its members shall be entitled to cast their votes in favour of a candidate of any other community standing for election to the legislature, under special rules, made in this behalf. Likewise in the Punjab Legislature Muslims, Hindus and Sikhs shall be represented in proportion to their respective populations as shown in the latest census.

(14) President shall be the head of the Federation. His powers shall be similar to the powers enjoyed by a constitutional monarch.

(15) The President shall be elected by the Federal Assembly by adopting the same formula for voting as required for passing an ordinary bill, which means, in accordance with the principle laid down in Clause (1).

(16) The Judges of the Federal Court with life tenure, retaining office during good conduct, as well as all our ambassadors to different countries of the world shall be elected by the Federal Legislature by adopting the same formula for voting as required for passing any ordinary bill.

(17) Governors of Provinces shall be also elected by the Provincial Legislatures by the same method of voting as adopted in passing any ordinary bill in the Legislatures concerned.

(18) In view of our special conditions a unicameral system is preferable to a bicameral one. In a democracy where such exceptional checks and counter-checks, as would come into being under the operation of the principle embodied in Clause (1), exist, the dangers of instituting a unicameral system may be practically nil. Failure of unicameral system in countries where it was tried was,

however, due to the fact that there the rule of majority in its unqualified form existed as it exists now. Hence, the need arose to check rashness and irresponsibility of a single chamber. It would be undoubtedly risky to adopt a unicameral system in those countries.

(19) Non-parliamentary executive of the American type shall have no place in the context of the Indian situation. For India the executive shall be parliamentary that of the British type. The Swiss type of elective Government, however, may best suit India, provided the legislature meets *in camera* as a Committee of the House for electing Ministers, and provided further that a fixed quota in percentages of Ministers to be drawn from each major community is laid down in the Constitution, provided further that such election shall be made in accordance with the principle laid down in Clause (1).

(20) There shall be no provision made for the representation of vested interests in the legislatures, for, to talk of such representation is to talk in an archaic language of an age which is passing and which we are all burying fathoms deep.

Be it noted that clause (1) is the soul and substance of this thesis. It is the fulcrum on which the framework of our constitution rests and revolves. It embodies a formula, which, if adopted would undoubtedly solve our Hindu-Muslim-Sikh problem. Clauses (2) and (3) are merely corollaries to clause (1) and therefore go with clause (1). All other clauses are more or less subsidiary and put into the thesis in order to give us an idea of the picture as a whole. Their

purpose is nothing more. They may be safely disregarded, if not acceptable on other valid grounds, as being no part of the formula as embodied in clause (1). I wish to rivet the attention of our leaders only on this Clause Number One and invite constitutional experts to work out a detailed Constitution for our Federation on that basis.

It is evident that, for good reasons, if it became necessary to increase the number of Provinces, such an increase in and by itself would not be against the spirit of the formula propounded here, provided, however, that the principle of Clause (1) must of course apply to every new Province so created.

IX

HOW THE FORMULA WORKS OUT IN PRACTICE

Critics of the formula as embodied in Clause (1) might say as under:—

I. "That though the formula lifts off the minds of the minority community in the legislature the burden that at present weighs them down with the anxiety about their future and removes the genuine fear, viz., that the majority community would in perpetuity rule over or dominate the minority community, it gives them a virtual veto on all government measures. In the event of the formula coming into operation the community which would rule the Province and the Federal Government would be the minority community only. Moreover, a minority community, being irresponsible so far as the administration of government is concerned, can easily create deadlocks, and the whole machinery of government may easily come to a dead stop. The essential pre-requisite of a constitution is that it must be workable, and if it does not contain in itself a machinery to dissolve or break deadlocks, the constitution stands condemned. It is as inequitable, if not more so, that a minority community should be virtually allowed to rule over the majority community as it is that a majority community should rule over and dominate a minority community. True, Hindu minorities would dominate over the Muslim majority in the Muslim majority Provinces, but that would be no consolation to Hindu majorities who would be ruled by

the whims and fancies of Muslim minorities in the Hindu majority Provinces."

The reply to this argument is as follows:—

It is not true that the formula gives a virtual veto to the minority community on Government measures. It merely appears to give a power of veto to the minority. In practice the majority party in the Legislature will and must seek the co-operation of the minority party in the formation of government. Under the operation of the formula, therefore, the majority party simply cannot form a stable ministry. Coalition ministry will be as inevitable as Fate itself.

Moreover circumstances in India are most propitious for this consummation; for, in India there are no major parties who are divided by a clear line of cleavage, parties with divergent ideologies with differences on broad, vital or paramount issues of policy. This is and must be so, for, till yesterday, we were ruled and governed by a foreign power, with its own policies and programmes. We have no past constitutional history of parliamentary government in the true sense of the term. Democracy in the true sense of the word is unknown to us for centuries. It is by a steady growth in political consciousness and by evolutionary tortuous processes in the working of a democratic constitution that major parliamentary parties gradually emerge. They do not come out of a vacuum. Often times there are historical origins of the major parties, rooted in the struggles of the individual nation, carried on for decades and centuries on social, political or religious issues, which once deeply agitated the masses of that nation. Such is the history of the major parties in

Great Britain, France, the United States of America, Switzerland and Italy.

If an illustration may be permitted on the working of the present Interim Government, which is frankly a Coalition Government, one may safely assert that if the ideology or the issue of Pakistan *versus* 'Hindustan' did not divide its members, it would work smoothly without a major hitch, for in India there are yet not formed major political parties with broad issues of policies.

Hindus and Sikhs, for instance, in the Punjab are willing to work in a coalition ministry formed by the Muslim League, provided the ideology of Pakistan is given up by the Muslim League. That a coalition ministry in every Province is feasible and that no fundamental differences in policies—of course save and except on the question of Pakistan, which in our present Scheme does not exist—separate them may be again gathered from the momentous and almost prophetic words that have fallen from the lips of no less a person than Khan Iftikhar Hussain of Mamdot, Leader of the Muslim League Assembly Party in the Punjab. The memorable utterance runs thus:

"He hoped that the time would come soon when every provincial ministry whether in a Muslim majority province or Congress majority province would include representatives of both." (The Times of India, dated 4-3-47.)

That is as it should be. "The fact of a new idea having come to one man is a sign that it is in air".¹ The present writer first propounded the rudiments of his formula as early as in 1939 in an article entitled

¹ Viscount Morley.

Democracy-in-India in the Quarterly *Humata*, then edited by the great oriental scholar, the late Mr. Sohrab Jamshedji Bulsara of international repute. The formula appealed to him immensely and in a note appended to that article he wrote:

"Mr. Rustomji B. Andhyarujina is.....

..... The problems he tackles in an original way, in the following article, deserve the serious consideration of all patriotic Indians, and must be hailed by all minority communities as offering a reasonable solution of their difficulties in the Free India of the future."

The vision of a Free India is now a reality and the present writer thought it was high time he placed the idea for what it is worth before the framers of our Constitution in all humility.

This idea (of the formula) seems to have now somehow spread, though in a different form, and if it has something dynamic in it it is bound to be universally accepted, if not now, at no distant date.

Khan Saheb Iftikhar Hussain has almost pointed his finger at the Promised Land and unconsciously perhaps assumed the role of a Prophet of the new era of constitution-making that has dawned on this troubled land of ours. The only difference between this writer and the Khan Saheb is that without incorporating the formula under discussion into the Constitution of India, his above message of hope would be comparable to a soul without a body, to embody it. The spirit of the message must not rest on conventions but must be embodied in a legal manner in our constitution, for as I have stated elsewhere in a written constitution there is no scope or room for conventions as we know them growing up

in Great Britain which has no written constitution at all. And the only way to translate Khan Saheb's message into action is to adopt the formula I have been propounding in this thesis, for, without adopting the formula, a coalition ministry may turn out worse than useless.

II. It may be, however, argued against me and the Khan Saheb that a Coalition Government has been odious to all democratic countries and more so in England. It is an evil which is merely tolerated for the time being as it is a necessary evil in times of great crisis such as a war that threatens the very existence of the nation. In normal times democracy leans against a coalition government, for, as experience has shown, it retards progress all round, except on the crisis-front.

But this criticism is answered thus:

The circumstances of those democratic countries, as I have stated elsewhere at some length in the course of these discussions, do not obtain in our country. There the parties, being divided on broad issues of policy, a Coalition Cabinet means a total suspension of the programmes of all the parties. The coalition must work on common grounds, directly arising out of a particular crisis which has given birth to the coalition. Hence, naturally a Coalition Government is odious and unwelcome to all parties, for the social, political and economic evolution in a particular direction according to the principles and policies of the parties concerned is thereby suspended. Thus for the duration of a coalition Government the whole body politic remains in a state of animated suspension. But in India as I have stated before conditions are totally different, for the parties here will have to create their histories which

would take decades and perhaps centuries before they may be approximated to the position of major political parties in England. Hence, there is nothing in the objection that Coalition Government would be odious or unwelcome in India and that it would retard the progress of the nation.

Moreover, if one reads the inside history of Cabinet meetings one is agreeably surprised to find that rarely is the Cabinet driven to a vote on any given proposal, but still there are several sections even in a single party representing several shades of opinion, which are reconciled by compromises and concessions, with the result that the idealism of a Minister is curbed here and the conservatism of another toned down there. Have we any valid reason to doubt that this harmony based on compromises and concessions will be achieved in our cabinets where Hindu and Muslim and Sikh gentlemen would sit together in a council presiding over the destiny of our nation? None whatsoever. Once the *raison d'etre* for the fundamental differences arising out of the demand for Pakistan disappears, as it is bound to do under the operation of the formula, harmonious working of coalition ministries in India may be safely predicted. Is not France perpetually ruled by coalitions?

III. This incidentally disposes of the criticism that the constitution of India, based on the formula in question would not be workable. In the above circumstances, in India a breakdown or a deadlock would be an exception, if ever it takes place. Moreover a far-sighted Constitution always provides for emergency powers in the hands of the head of the State and the Province to be used in times of emergency, however, remote. Governors and the President would assume

the authority of the State during such emergency which would be short-lived, as wise statesmanship would always contrive to end it as soon as possible in a democratic state. But to provide for emergency powers is not to postulate that emergency of the sort debated here would necessarily arise.

Moreover, gradually a tradition would grow up based on just compromises and timely concessions, which would enter into the habits of the people and a body of understanding, which Lord Bryce refers to, would be formed by gradual stages among the great parties working the Constitution, when even a possibility of a deadlock will not exist.

IV. Then again it is contended that the formula under discussion would tend to create a rule of a minority over a majority.

The reply to this criticism is already given, when it is demonstrated that the formula makes for no one party rule but that of the two or three major parties in the legislature. Once the Ministry which has to take in it members of a minority party in the legislature takes the leaders of the minority party into the Cabinet the minority party ceases to be irresponsible. In a coalition government of this nature no one party in practice would rule over another. By a process of compromises and concessions the ministry would govern the State or the Province as a whole with the willing co-operation of all the parties.

Again when the critic says that the formula would create a minority rule, that is, the rule of a minority, he forgets that under the operation of the formula the minority party will have of course in theory, but none-the-less effective—only a power of veto on all measures introduced by the majority party, but that it lacks by

its very nature, the power of getting its own bills passed in the legislature. To borrow a new word from the Swiss Constitution and use it loosely for our purpose for want of a better word we may say that the minority's power of "initiative" is infructuous and sterile.¹ How then can it be said to rule over the majority?

The total reshuffling of powers brought about by the operation of the formula resulting in a balance of power coupled with natural checks and counter-checks will be better appreciated by a comparison of the powers possessed by a majority party in Western democracies with those which would be possessed by a majority party in our legislature of the future. In Western democracies a majority in the legislature possesses two vital powers, viz., (1) that of getting its own bills passed or to use the phraseology which has been already used, that of a successful "initiative," and (2) that of a veto. It is the possession of these two powers by one person or one organized body that constitutes the possessor thereof a sovereign. These twin powers is a sign and symbol of sovereignty—of "scepter'd sway". Under our formula, however, these twin powers would be evenly distributed in an exquisitely fine balance between the majority and the minority parties in the legislature. Therefore, though a minority party would theoretically—and I say theoretically advisedly—possess the power of a veto, yet lacking the power of a successful "initiative" that is to say the power to get its own bills passed, it would be power-

¹ Strictly speaking "initiative" means right of the people to introduce laws by petition, a novel mode of legislating introduced in the middle of the nineteenth century in Switzerland. The word, of course, is used in this thesis in a different sense retaining its original literal meaning.

less to rule singly. It is, therefore, more correct to say that a party, wishing to govern the State must first secure the willing co-operation of the other party. It would not then be the rule of one party or the other but a joint rule of both the parties. Such indeed would be the logic of the situation created by the working of this formula that in the Punjab, for instance, without a provision being expressly embodied in the constitution that the Ministry shall be a coalition one it would be necessarily a joint rule of Sikhs, Hindus and Muslims; in Bengal it would be a joint rule of Hindus and Muslims and the same would be the case in all other Provinces.

Hence, it would be hasty and fallacious to say that the minority would rule over the majority. On the contrary it is legitimate to say that due to our special circumstances destiny has given us an opportunity to evolve out a democracy, more perfect than any that prevails in the Western countries or America. By reason of its uniqueness and perfection our democracy would one day come to bear a distinct name and significance. In an article on the subject written by me in 1939 I have described it *Democracy-in-India*, an institution special to India which is very likely to be copied by other countries of the world having more or less similar conditions to ours.

V. Again critics might say, "Once the issue of Pakistan disappears from the scene, the artificial barriers of special communal electorates would inevitably obstruct the formation of parties on broad issues of economic and social ideologies. This will retard the social and economic progress of the country. Economic and social reforms would give way to religious or communal slogans and battle-cries. The whole

emphasis in the polity would be on communal issues as opposed to national issues. Further, even though the constitution might work smoothly, peace would have been purchased at the cost of progress of the country. It would be a supine democracy a 'slow coach' without a backbone, and without a push".

The reply to the above criticisms would be as under:

The former part of the argument is a relic of our heritage of prejudice of the past born of the British regime.

Separate Electorates had no doubt the effect of distributing loaves and fishes, of driving a wedge between the two communities and of keeping the national movement in check for sometime. This past we must forget. Special Electorates stink in our nostriles on account of this havoc they have undoubtedly wrought. But like every other device or expedient or innovation which the British introduced in India for their interests and self-preservation this device also has strangely proved mysteriously beneficial to us. Who denies that it was the creation of the Separate Electorates that created political consciousness among the masses of Muslims and the Depressed Classes, knitted divergent sections in the major communities into compact units, and raised two or three major parties into India, where there had been divisions, sub-divisions and cross-divisions of the masses of the country? This brought into being such dynamic forces that they no doubt accelerated the advent of Independence and made the British afraid of rousing these organized forces against them. Once the British left India, the Separate Electorates would become instruments of justice and go a long way to establish a stable state.

There being no communal issue of vital importance left to divide the country into two camps of two different communities, the elections are bound to be fought out even under separate communal electorates on broad issues of social or economic ideologies. There are bound to be, as long as human nature remains what it is, liberals and conservatives in every group of human society, among Hindus, Muslims, Sikhs and others.¹

There are rich men and poor men in both the communities. Again there are vested interests among Muslims as well as Hindus. There are masses and classes in both the communities. There being adult franchise, the common man, being in majority, is bound to assert himself ultimately. His needs must resolve themselves into some sort of ideologies. His wants are bound to throw up leaders who would be the men of the hour, who would carry the day before them. Therefore, Hindus, Muslims and Sikhs after the heat and excitement of the present-day controversy have cooled down will settle down to peaceful constitutional activities. As soon as they begin to think of themselves and not of the enemy outside their respective camps, their own problems—which are common to the masses and classes of both the communities respectively—are bound to come to the surface and their energy would be directed towards rectifying the social and economic

¹ According to W. E. H. Lecky ('Democracy and Liberty') there are naturally four kinds of men—those who wish to return to the methods and institutions of the past (reactionaries), those who wish to retain those of the present (conservatives), those who wish to reform present institutions (Liberals), and those who wish to abolish them (radicals). If for evident reasons of expediency the two former classes and the two latter act together politically we get a division into two great political parties resting on fundamental psychological principles. This is what Professor Goldwin Smith calls "bisection of human character." Vide *Elements of Political Science* by Stephen Leacock.

wrongs. The elections would then be fought on these vital issues which affect them personally and intimately. Kinship in ideology would inevitably create a meeting ground for kindred souls of both the communities.

There would be thus formed natural sections in each communal party in the legislature which would coalesce naturally and almost instinctively and ally themselves to carry out a particular policy common to those sections. There would be sections and cross-sections in each communal party in the legislature with their own ideologies. A majority party would find more common between a section of the minority party than one of its own sections and *vice versa*. In these circumstances, the emphasis would be lifted from communal issues and transferred to issues of different ideologies. Broadly speaking, the conservatives of the minority party would tend to ally themselves with the conservatives of the majority party and so would the liberals in both the parties. The artificial barriers created by communal electorates will break down under the stress of the forces released in the country by powerful movements of reform in one direction or another and in the common fight against a common ill or enemy, the communal distinctions would tend to be wiped out. In these circumstances the communal electorate would lose its sting but retain its honey. The shell, however, would remain giving the respective communities eternal refuge, but the feelings which had brought it into being will vanish. Once secure in the conviction that one's community is safe under the constitution, communal slogans and battle-cries, if raised at all, would evoke little or no enthusiasm and would be soon drowned in the loftier, higher and progressive slogans.

and battle-cries of social and economic problems raised by political groups in the community itself.

Moreover, by the action and inter-action of these forces government of the day would tend more and more to become homogenous in pattern and spirit. This being the nature of the government of the future, emphasis would be naturally laid more on domestic and national issues, rather than on communal and parochial ones.

Again it would be a misnomer to call such a state as this a supine democracy, a 'slow-coach', without a backbone and without a push. Of course, it would be slow in the sense that the ministry would have to take a majority of the minority group with it in any measure that it embarks upon, but as I have stated elsewhere in course of time necessary co-operation in this behalf would become natural rather than forced or artificial and once there are willing sections to work together for a common policy, on the contrary the speed of progress sometimes would be rather faster than one would expect from a democracy of the British or American type in similar circumstances.

In view of all these considerations it is submitted that there is nothing in the criticisms under consideration.

X

CONCLUSION:

In framing a constitution for ourselves with what spirit we approach our set task is all important. In political science theories mislead rather than help. The rules of this 'science' are not as exact as those of mathematics, for a theory may be natural in one soil and exotic in another. Conditions in two given countries may differ so fundamentally that what would be food to one may be poison to another. Above all political science is apt to draw inferences from treacherous premises, viz., the myriad variations and shades in human nature and psychology. The depths of these mysterious fields are still not fully explored. In these matters, how human nature would react in a set of circumstances, we are always experimenting, learning by a method of trials and blunders. None can dogmatise because the past has yielded a result of a particular kind. The future may very well yield totally different results. Such is the nature of what we euphemistically call political science. Let us not, therefore, set much store by orthodox abstract theories of democracy which are by their very nature based on incomplete human experience.

Let us remember the moral contained in the lines of Sheikh Sa'adi, that great practical philosopher of Persia, quoted elsewhere by me: Let the constitution

of the future bind us together in benevolent bondage, the different members of the same family—our Great Communities—not by fear—for that never binds—but with the silken cord of toleration, trust and love. That is the spirit with which we must approach our task. Clause (1) of the Scheme, I submit, breathes this spirit, and at the same time leaves nothing to chance, conventions, or the goodwill of any one particular community. It renders Pakistan superfluous and the further partitioning and ‘contonizing’ of India out of place in this scheme. Above all, it takes account of the existing distrust among the major communities for one another and effectively removes the apprehension that one community would dominate over another. It is beneficial to all and injurious to none. It tests our professions and *bona fides*. It gives us an opportunity to prove ourselves Indians first and Indians last, without at the same time sacrificing or compromising in the slightest degree the rights and interests of our own respective community.

Having done the right thing, the question, whether this party or that party will accept this solution, ought not to worry the protagonists of this formula, for if an inherently just and equitable solution is placed before the public, sooner or later it is bound to be accepted by them. Such indeed is the potentiality of our essentially correct conduct.

I cannot end this brief discourse without pointing out a common frailty in human nature and a fervent appeal, if I may respectfully say so, to our national leaders of the great Sikh, Muslim and Hindu communities to guard against it on the eve of our Great Emancipation.

The frailty is this: "We repudiate, when applied to others, the very arguments by which we defend our own case".¹

Let me in conclusion pray in the hoary language of the Avestan Scripture:—

"ATHA JAMIAT YATHA AFRINAMI!"

"Thus may it come to pass, just as I have prayed!

Oh Ahura Mazda!"

¹ Norman Angell in his *Great Illusion*—Now speaking about national leaders of the different countries of the world.

The passage merits reproduction. It runs thus:

"Every Nationalist demands political independence for himself and denies it to some other. For the Italians a native Government is a sacred and unalienable right, but it is bad for Tyrolese; Polish poets or generations have sung that to deny a people its own cultural or national expression is "murder of the soul". But Ukrainians should be beaten up and tortured if they ask for such things..... The Irish, says Mr. De Valera, have the right to the Government they want; but that does not apply to the Ulster Irish. It is broadly true to say that there is not a single nationalist in the world who is not denying to others the national rights which he claims for himself; repudiating when applied to others, the very arguments by which he defends his own case".

APPENDIX A.

Total population of India of the British Provinces and of States and Agencies community-wise, based on the Census of 1941 and relevant for our purpose:—

<i>India.</i>	<i>Hindus.</i>	<i>Muslims.</i>
India ..	254,930,506	92,058,096
British Provinces ..	190,810,953	79,398,503
States and Agencies ..	64,119,553	12,659,593

APPENDIX B.

Muslim population in the seven Hindu majority British Provinces of Madras, Bombay, United Provinces, Bihar, Central Provinces, Assam and Orissa.

<i>Population.</i>				
1. MADRAS	3,896,452			
2. BOMBAY	1,920,368			
3. UNITED PROVINCES	8,416,308			
4. BIHAR	4,716,314			
5. CENTRAL PROVINCES	783,697			
6. ASSAM	3,442,479			
7. ORISSA	146,301			
		<i>Total</i>	<i>23,311,919</i>	

APPENDIX C.

Muslim population in the four Muslim majority British Provinces (together with that of Baluchistan):

	Population.
1. BENGAL	33,005,434
2. PUNJAB	16,217,242
3. N.-W.F.P.	2,788,798
4. SIND	3,208,325
5. BALUCHISTAN	438,930
<i>Total</i> 55,658,729	

APPENDIX D.

Population of Sikhs in the Punjab (British Territory and the Punjab States):—

	Population.
BRITISH TERRITORY	3,757,401
STATES	1,358,784
<i>Total</i> 5,116,185	

APPENDIX E.

Percentage of Muslim population in the seven Hindu majority British Provinces taking the eleven British Provinces (with Baluchistan) as a unit:—

	<i>Muslim population</i>
Eleven British Provinces ..	79,398,503
Seven Hindu majority Provinces ..	23,311,919
Four Muslim majority Provinces (with Baluchistan)	55,658,729

Out of a total population of roughly 80 millions of Muslims living in the eleven British Provinces, roughly 24 millions of Muslims live in the 7 Hindu majority British Provinces. This works out at about 30%. Thus roughly about 30% of the total Muslims of the eleven Provinces live in the seven Hindu majority Province.

APPENDIX F.

Population community-wise of the British Provinces
 (together with that of Baluchistan and Delhi) according to 1941 Census.

	Hindus.	Muslims.	<i>Indian Christians</i>	Total.
Madras	42,439,822	3,896,452	2,001,082	49,341,810
Bombay	16,555,390	1,920,368	338,812	20,849,840
Bengal	25,059,024	33,005,434	110,923	60,306,525
United Provinces	45,811,696	8,416,308	131,327	55,020,617
Punjab	7,550,372	16,217,242	Sikhs 3,757,401 <i>Christians</i> 486,038	28,418,819
Bihar	26,514,269	4,716,314	24,693	36,340,151
Central Provinces and Berar	12,931,946	783,697	48,260	16,813,584
Assam	4,213,223	3,442,479	37,750	10,204,733
North-West Frontier Province	180,321	2,788,797	<i>Christians</i> 5,426 57,939	3,038,067
Orissa	6,832,706	146,301	26,584	8,728,544
Sind	1,229,926	3,208,325	13,232	4,535,008
Baluchistan	39,521	438,930	2,633	501,631
Delhi	567,225	304,971	10,494	917,939

Sikhs

APPENDIX G.

Non-Muslim population and their percentages in the five Muslim majority Provinces of Bengal, the Punjab, North-West Frontier Province, Sind and Baluchistan:—

(i)

	Total population.	Non-Muslim population.	Percentage of Non-Mus. population.
Bengal	50,306,525	27,301,091	45%
Punjab	28,418,319	12,201,577	43%
Sind	4,535,068	1,326,683	29%
North-West Frontier Province	3,039,067	249,270	8%
Baluchistan	501,631	62,701	12%
Bengal, Punjab, Sind, North-West Frontier Province & Baluchistan	96,860,051	41,141,322	42½%

(ii)

Total Muslim and total Non-Muslim population in the five Muslim majority Provinces of Bengal, the Punjab, Sind, the North-West Frontier Province and Baluchistan, with their percentages:—

	Population.	Percentage.
MUSLIMS ..	55,658,728	57½%
NON-MUSLIMS	41,141,322	42½%

